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APPLICATION NO.	FIL	ING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/762,561 01/23/2004		1/23/2004	Carl Arthur Dzenis	14599	3194
293	7590	03/14/2005		EXAM	INER
Ralph A. D	owell of D	OWELL & DOV	ARK, DA	ARK, DARREN W	
2111 Eisenho Suite 406	ower Ave.			ART UNIT	PAPER NUMBER
Alexandria,	VA 22314	4		3643	

DATE MAILED: 03/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Ederacinos of time may be available under the provision of 37 CPR 1.13(a), in no event, however, may a reply be timely filed after 50x (6) MONTHS from the mailing date of this contributions.  If NO period for reply is splicially selected above, the maximism school provided and the 50x (6) MONTHS from the mailing date of this communication.  Failure to reply within the plat or ordended period for reply will, but the statutory minimum of thinty (30) days will be considered timely.  If NO period for reply is applicated above, the maximism school period supply and will explicit select (by the 50 files of the communication.)  Failure to reply within the plat or ordended period for reply will, by statute, eause the application to become ABANDONED (35 U.S. C. § 133). Any reply recented by the 50 files than there an ordens after the mailing date of this communication.  Failure to provide the maximism school in the selection of the selection	$\exists$		Application No.	Applicant(s)					
Darren W. Ark    Darren W. Ark   3643   Period for Reply			10/762,561	DZENIS, CARL ARTHUR					
The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  1 Exercision of time may be available under the provision of 3 CFR 1.136(a). In or event, however, may a reply be timely filed of the SX (6) MONTHS from the mailing date of this communication.  1 If NO paried for reply is splicine to when the provision of 3 CFR 1.136(a). In or event, however, may a reply be timely filed of the SX (6) MONTHS from the mailing date of this communication.  1 If NO paried for reply is splicine to extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the official exit multiture nominal statutory product the mailing date of this communication.  2 Any reply received by the official exit multiture nominal start for mailing date of this communication, even if firmly filed, may reduce any extended particular to the mailing date of this communication, even if firmly filed, may reduce any extended particular to the mailing date of this communication.  3   Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4   Claim(s)	7	Oπice Action Summary	Examiner	Art Unit					
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THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provisions of 37 CPR 1.13(e). In no event, however, may a reply be timely filed effect SX (8) MONTIST from the mailing date of his communication.  If the period for reply specified store is less than Minty (20) days, and the statutory minimum of thisty, (30) days will be considered timely.  If the period for reply specified for reply wills in the part of the period for reply wills in the part of the statutory minimum of thisty, (30) days will be considered fainely.  Failure to reply wills in higher or extended period for reply will, by statute, cause the application to become ABANCONED (35 U.S. 2, § 133). Any reply received by the Office and the firm hardward and the merilling date of this communication.  Failure to reply wills in higher or extended period for reply will, by statute, cause the application to become ABANCONED (35 U.S. 2, § 133). Any reply received by the Office that the merilling date of this communication.  Failure to reply wills and the part of the period of the communication.  Failure to reply wills and the part of the part	The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply								
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Paper No(s)/Mail Date 6) Other:									

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## **DETAILED ACTION**

## Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - Claims 1-26, drawn to a cannonball for use in association with downriggers, classified in class 43, subclass 43.13.
  - II. Claims 27-30, drawn to a method of manufacturing a cannonball, classified in class 148, subclass 518.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the cannonball for use in association with downriggers could be made by taking a pre-cast core of lead and enveloping the lead core with two halves of aluminum material and joining them therearound, and the method of manufacturing a cannonball could be used to make other and materially different product such as ballast or anchors for boats or other submerged apparatus which are used for example to collect aquatic samples from a certain depth of water.
- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

- 5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
- 6. If applicant elects Group I, then this application contains claims directed to the following patentably distinct species of the claimed invention:

Species I - Figs. 1-5;

Species II - Fig. 6 (faceted surface and shark mouth and teeth);

Species III - Fig. 7 (only shark teeth and mouth);

Species IV - Fig. 8 (hammered chrome finish with mouth); and

Species V - Fig. 9 (vinyl finish with mouth).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 2, 14, 20-25 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

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Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

7. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (703) 305-3733 or (571) 272-6885. The examiner can normally be reached on M-Th, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Darren W. Ark

Primary Examiner

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**DWA**